IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

Bail Appl..No. 7665 of 2007()

[CRIME NO.862/2007 OF PERINTHALMANNA POLICE STATION]

: PETITIONER/ACCUSED NO.2

HANEEFA, S/O MOOSA,
PATHARI HOUSE, PUTHANANGADI P.O.,
PERINTHALMANNA TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON
SRI.M.V.ANANDAN
SMT.S.SMITHA (PARAKKAL)

RESPONDENTS: DEFACTOR COMPLAINANT & STATE

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1. THE SUB INSPECTOR OF POLICE,
PERINTHALMANNA POLICE STATION,
MALAPPURAM DISTRICT.

2. THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 18/12/2007, ALONG WITH BA NO. 7841 OF 2007
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.Nos.7665 & 7841 of 2007

Dated this the 18th day of December 2007

O R D E R

Applications for regular bail. The petitioners face allegations in a crime registered under Section 376 I.P.C and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The crux of the allegations against the petitioners is that one of them committed rape on the victim, that was a consensual sexual intercourse. The said petitioner/the first accused and the victim girl have allegedly been indulging in sexual intercourse for some period of time prior to the incident in this case. The victim belongs to Scheduled Caste. She is acquainted with the first accused while he was working as a worker in the local quarry. The victim is aged below 15 years. On the date in question, the first accused had sexual intercourse with her and the second accused attempted to have sexual intercourse with her. She was not willing. She resisted. She cried aloud to attract the attention of her parents etc. It is thereafter that the victim's father took her to the police station and lodged a complaint. Investigation is in

progress. The petitioners have remained in custody from 15/11/2007.

2. The learned counsel for the petitioners submits that the allegations are totally false. The learned counsel for the second accused in particular submits that there is no allegation of his having committed any rape on the victim. At worst, the allegation can only be reckoned as one of alleged attempt to commit rape.

3. The learned Public Prosecutor opposes the application. Considering the age and the plight of the victim, the offence alleged must be reckoned as a very serious crime committed. The girl was much below the age of consent (16 years) going by the records maintained by the school where the victim was attending. In any view of the matter, the investigating officers may be granted reasonable further time to complete the investigation, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I agree with the learned Public Prosecutor that the investigating officer

deserves to be granted some further time to complete the investigation.

4. In the result, these petitions are dismissed. However, I may hasten to observe that the petitioners shall be at liberty to move this court for bail again at later stages of the investigation not, at any rate, prior to 28/12/2007. The investigating officer shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007